

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals of the District of Columbia

OCTOBER TERM, 1917.

No. 3121.



No. 15, SPECIAL CALENDAR.

GERTRUDE STANSOLAUS HUNTER, CLARA KINKSLEY
FULLER, MARY M. LOCKWOOD, KATE JANE BOECKH,
PAULINE F. ADAMS, MARGARET McINTYRE FORTHER-
INGHAM, PLAINTIFFS IN ERROR.

vs.

THE DISTRICT OF COLUMBIA.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

FILED SEPTEMBER 13, 1917.

PRINTED OCTOBER 25, 1917.

Court of Appeals of the District of Columbia

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Court of Appeals of the District of Columbia.

No. 3121.

GERTRUDE STANSOLAUS HUNTER et al., Plaintiffs in Error,

vs.

THE DISTRICT OF COLUMBIA.

1 Police Court of the District of Columbia.

No. 518,775.

DISTRICT OF COLUMBIA

vs.

GERTRUDE S. HUNTER et al.

Bill of Exceptions.

Be it remembered, that in the Police Court of the District of Columbia at the times hereafter mentioned the following papers were filed and proceedings had in the above entitled cause:

On the 24th day of August, 1917, an information was filed by Conrad H. Syme, Corporation Counsel, by Ringgold Hart, his assistant, charging the defendants with unlawful assembly. The said information being in the following language:

In the Police Court of the District of Columbia, August Term,
A. D. 1917.

DISTRICT OF COLUMBIA, ss:

Conrad H. Syme, Corporation Counsel, by Ringgold Hart, Assistant Corporation Counsel, who for the District of Columbia, prosecutes in this behalf in his proper person, comes here into court, and causes the court to be informed and complains that, Gertrude Stanislaus Hunter, Clara Kingsley Fuller, Mary M. Lockwood, Kate Jane Boeckh, Pauline F. Adams, Margaret McIntyre Fotheringham, late of the District of Columbia aforesaid, on the 23d day of August, in the year, A. D. 1917, in the District of Columbia, did congregate

and assemble on Pennsylvania Avenue, N. W., did then and there crowd, obstruct, and incommode the free use of the sidewalk thereof, on said Avenue. Contrary to and in violation of an Act of Congress in such case made and provided, and constituting a law of of the District of Columbia.

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CONRAD H. SYME,
Corporation Counsel,
By RINGGOLD HART,
Assistant Corporation Counsel.

Personally appeared Collin E. Flather, this 24th day of August, A. D. 1917, and made oath before me that the facts set forth in the foregoing information upon personal knowledge are true, and that the facts set forth therein as on information and belief he believes to be true.

R. B. GOTT,
*Deputy Clerk of the Police Court
of the District of Columbia.*

Whereupon the defendants by their counsel filed a Motion to Quash the information filed in the above entitled cause, said Motion to Quash being in the following language:

In the Police Court of the District of Columbia.

DISTRICT OF COLUMBIA,

VS.

GERTRUDE HUNTER et al.

Motion to Quash.

Comes now the defendants in the above entitled cause and by their attorney move the court to quash the information filed therein for the following reasons:

1. The information fails to aver or set out any acts of the defendants sufficient in law to constitute an offence.

2. The offence which said information attempts to charge is not an offence in the District of Columbia which can be prosecuted by the District of Columbia.

3. The said information is vague and indefinite and does not accord to the defendants their constitutional rights to be informed of the nature and cause of the accusation against them.

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MATTHEW E. O'BRIEN,
Attorney for the Defendants.

Whereupon the Court overruled said Motion to Quash, to which ruling of the Court Counsel for the Defendants duly excepted and gave notice of his intention to apply to the Court of Appeals for a writ of error.

Whereupon Counsel for the Defendants filed a motion for a Bill of Particulars, said Motion being in the following language:

In the Police Court of the District of Columbia.

DISTRICT OF COLUMBIA,

vs.

GERTRUDE HUNTER et al.

Motion for Bill of Particulars.

Comes now the Defendants in the above entitled cause and by their attorney move the Court to compel the District of Columbia to give them a Bill of Particulars in respect to the following matters:

1. The Act or omission on the part of each of the respective defendants which it is claimed by the District of Columbia to constitute the charge alleged in the information.

2. The act or omission of each of the respective defendants which it is claimed by the District of Columbia amounted to an unlawful assembly.

3. The act of each of the respective defendants which it is claimed by the District of Columbia resulted in the incommoding of traffic.

4. The act of each of the respective defendants which it is claimed by the District of Columbia resulted in the blocking of traffic.

MATTHEW E. O'BRIEN,
Attorney for the Defendants.

4 Whereupon the Court overruled said motion for a Bill of Particulars which ruling of the Court was excepted to by Counsel for the Defendants and notice given of his intention to apply to the Court of Appeals for a Writ of Error.

Whereupon the defendants individually and severally demanded a jury trial and counsel for the defendants moved the Court to grant the request for a jury trial, which motion was by the Court overruled to which ruling of the Court the defendants by their counsel duly excepted and gave notice of an intention to apply to the Court of Appeals for a writ of error.

Whereupon the District of Columbia to maintain the issues on its part joined called COLLIN E. FLATHER, a witness of lawful age, who being duly sworn testified that about 4.35 p. m. on the date mentioned in the information, Aug. 23rd, he noticed the defendants standing at the entrance gate to the White House. He went there and found a crowd of a thousand or fifteen hundred people. He stood in front of one of the defendants and she heard him remark that he wanted everybody to move, there were thirteen or fourteen

policemen present and he ordered them to disperse the crowd and lock up everybody who did not move. He called upon the defendants and asked them to voluntarily move, but they refused. He asked them a second time and then placed them under arrest and sent them to Headquarters. He identified the defendants and stated that they were standing three on each side of the East Gate and that is where he placed them under arrest.

On cross-examination the witness testified that there was nobody near these women where they were standing. That there was a circle of about ten feet; that the women were inside of the trees in the center of the sidewalk; that they were up at the gate and a crowd around and surrounding them. That for a space of ten or twelve feet there were a few people besides policemen, and they were moving up and down all the time. That the ladies stood with a banner.

Witness could not tell what kind of a banner. Did not read
5 the inscription on the banner. Did not ask the ladies to give up their banner. That in the position the defendants occupied there was a clear space in front of them because the officers kept them back. People moved up and down. The defendants had their backs up against the fence. The officers kept the crowd moving. There was no difficulty for any one to pass around where these ladies were standing, but would have been if the officers had not kept the crowd moving. There was no trouble. There was no noise, except a hissing, and a remark "turn them over to the Germans". There was no profanity. The witness could not say what kind of a banner each of the defendants carried, but was sure that each of the defendants carried a banner.

This was substantially all the evidence introduced in the case.

Whereupon counsel for the defendants moved the Court to dismiss on the ground that the evidence failed to disclose that the defendants had in any way unlawfully assembled or obstructed the traffic.

The Court overruled the motion to which ruling of the Court the defendants by their counsel duly excepted and gave notice of their intention to apply to the Court of Appeals for a writ of error.

Whereupon counsel for the defendants moved the Court to dismiss the case on the ground that the evidence introduced disclosed, if it disclosed that any offence had been committed, that the offence was committed upon territory under the exclusive jurisdiction of the United States.

The Court overruled the motion to which ruling of the Court the defendants by their counsel duly excepted and gave notice of their intention to apply to the Court of Appeals for a writ of error.

Whereupon the Court after argument by counsel adjudged the defendants guilty of the offence charged in the information, and imposed a sentence on each of said defendants of a fine of \$25 and
6 in default of the payment of said fine ordered that each of the said defendants be committed and imprisoned for the period of thirty (30) days.

Whereupon counsel for the defendants in open Court announced his intention to apply to the Court of Appeals for a writ of error and moved the Court to fix bail for the defendants pending action on his

petition for a writ of error. Which motion was by the Court granted and bail fixed in the sum of \$100 for each of the said defendants. Which bond with surety approved by the Court was given.

Whereupon counsel for the defendants now moves the Court to sign and seal this Bill of Exceptions to have the same force and effect as if said bill of exceptions had been signed before judgment. Which motion the Court grants and signs and seals this bill of exceptions accordingly this 25th day of August, A. D. 1917.

JAMES L. PUGH,
*Judge of the Police Court of the
District of Columbia.*

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(Copy of Docket Entries.)

No. 518,775.

In the Police Court of the District of Columbia.

August Term, A. D. 1917.

DISTRICT OF COLUMBIA

vs.

GERTRUDE STANSOLAUS HUNTER, CLARA KINKSLEY FULLER, MARY M. Lockwood, Kate Jane Boeckh, Pauline F. Adams, Margaret McIntyre Fortheringham.

Information for Unlawful Assembly.

Friday, August 24, 1917: Motion to quash information filed and overruled.

Motion for a Bill of Particulars filed and overruled.

Defendants arraigned: Each defendant pleads not guilty and demands a Jury Trial.

Demand for Jury Trial overruled.

Judgment: Guilty as to each defendant. Sentence: Each to pay a fine of twenty-five dollars, and, in default of the payment of said fine, to be committed to the Washington Asylum and Jail for the term of thirty days.

Exceptions taken to the rulings of the Court on matters of law and notice given by the defendants in open court, at the time of said rulings, of their intention to apply to a Justice of the Court of Appeals of the District of Columbia for a writ of error.

Recognizance in the sum of one hundred dollars each entered into on writ of error to the Court of Appeals of the District of Columbia upon the condition that in the event of the denial of

the application for a writ of error, the defendants will, within five days next after the expiration of ten days, appear in the Police Court and abide by and perform its judgment, and that in the event of the granting of such writ of error, the defendants will appear in the Court of Appeals of the District of Columbia and abide by and perform its judgment in the premises. Herman E. Gasch, Surety.

August 25, 1917: Bill of Exceptions presented, settled, signed, sealed and filed.

August 29, 1917: Writ of Error received from the Court of Appeals of the District of Columbia.

8 In the Police Court of the District of Columbia.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, N. C. Harper, Deputy Clerk of the Police Court of the District of Columbia, do hereby certify that the foregoing pages, numbered from 1 to 7 inclusive, to be true copies of originals in cause No. 518775 wherein the District of Columbia is plaintiff and Gertrude S. Hunter, et al., defendants as the same remain upon the files and records of said Court.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court, the City of Washington, in said District, this 4th day September, A. D. 1917.

N. C. HARPER,
Deputy Clerk Police Court, Dist. of Columbia.

[Seal Police Court of District of Columbia.]

9 [Endorsed:] No. 518775. District of Columbia vs. Gertrude S. Hunter, et al. Certified Copy of Record.

10 UNITED STATES OF AMERICA, ss:

The President of the United States, To the Honorable James L. Pugh, Judge of the Police Court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Police Court, before you, between The District of Columbia, plaintiff, and Gertrude Stansolaus Hunter, Clara Kinksley Fuller, Mary M. Lockwood, Kate Jane Boeckh, Pauline F. Adams, Margaret McIntyre Fortheringham, defendants, (Information No. 518,775) a manifest error hath happened, to the great damage of the said defendants, as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly,

you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Charles H. Robb, Senior Associate Justice of the said Court of Appeals, the 29th day of August, in the year of our Lord one thousand nine hundred and seventeen.

[Seal of Court of Appeals, District of Columbia, 1893.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Allowed by
CHARLES H. ROBB,
*Senior Associate Justice of the Court
of Appeals of the District of Columbia.*

Endorsed on cover: District of Columbia, Police Court. No. 3121. Gertrude Stansolaus Hunter et al., plaintiffs in error, vs. The District of Columbia. Court of Appeals, District of Columbia. Filed Sep. 13, 1917. Henry W. Hodges, clerk.